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C O N F I D E N T I A L SECTION 01 OF 02 MANILA 000428

SIPDIS

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TAGS: PBTS PGOV PHSA PREL RP

SUBJECT: PHILIPPINE COMPROMISE ON SPRATLYS DRAWS PRC IRE

REF: A. 2008 MANILA 1838

1B. 2008 MANILA 998

1C. 2008 MANILA 317

Classified By: Ambassador Kristie A. Kenney, Reasons 1.4 (b) and (d)

11. (C) SUMMARY: The Philippine Senate and House recently agreed to exclude the disputed Spratly Islands from the country's baselines, defining them instead under the terms of the UN Convention on Law of the Sea as a "regime of islands" -- although still subject to Philippine claims. President Arroyo has indicated that she will sign the bill into law soon. Notwithstanding Chinese diplomatic protests over the Philippines' Spratly claims, the accommodation achieved in the Philippine Congress appears to offer the best hope of moderating tensions in Southeast Asia over the disputed islands, while defusing past charges in the Philippine Congress and the media that the Arroyo administration has performed inadequately in defending Philippine sovereignty over these islands. According to Malacanang Palace, President Arroyo is slated to discuss the issue with PRC Premier Wen Jiabao at the upcoming ASEAN summit in Thailand.
END SUMMARY.

BACKGROUND

12. (C) The Spratly Islands, some 100-230 islets, atolls, coral reefs, and seamounts spreading over 250,000 square kilometers on the South China Sea, are the object of overlapping sovereignty claims by China, the Philippines, Vietnam, Taiwan, Malaysia, and Brunei. Although the Spratlys encompass less than five square kilometers of land area, the likely presence of oil, gas, and other mineral resources has kept the islands in the forefront as a regional irritant. The 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea lowered tensions in the region, and in 2005, the Joint Marine Seismic Undertaking (JMSU) agreement among China, Vietnam, and the Philippines coordinated "pre-exploration" of possible hydrocarbon reserves. Following allegations of kickbacks and corruption (reftel B), the Arroyo administration had little choice but to allow the JMSU agreement to lapse when it expired at the end of June 2008.

13. (C) As a party to the UN Convention on Law of the Sea (UNCLOS), the Philippines must define its territorial baselines prior to a May 13 deadline, if it is to later claim an extended continental shelf (ECS). Beginning in 2007, the Philippine Senate and House of Representatives have taken very different views regarding the definition of national boundaries under UNCLOS. In August 2007, a bill was filed in the Senate that would delineate the Philippines' boundaries along the same lines as the 1898 Treaty of Paris whereby Spain ceded the Philippines to the United States, leaving the Spratly defined as a "regime of islands" outside the baselines. However, the Philippine House of Representatives soon passed its own version of a baselines bill that expressly included both Scarborough Shoal and the Spratlys

within the country's territorial baselines.

¶4. (C) With legislators increasingly aware of the approaching UNCLOS deadline, the Philippine Senate and House passed their differing versions of the baselines bills on January 28 and February 2, respectively. Following often-heated public debate in both Congress and the media, on February 9 a bicameral panel hashed out a compromise measure that hewed closely to the Senate's version, while offering a nod to supporters of the House bill by adding the phrase "under the Republic of the Philippines" to the Senate's description of the Spratlys as a regime of islands. On February 17 Congress unanimously passed this compromise bill.

COMMENT:

¶5. (C) The Arroyo administration had long favored the Senate position of not including the Spratlys within the nation's baselines, partly out of a desire not to inflame tensions in the region, and partly out of recognition that the Philippines lacks the military capacity to defend the Spratlys, if it should ever come to that. It also cannot have escaped the Arroyo administration's notice that, although the UNCLOS cannot be used to settle border disputes, the majority of the Spratlys lie within the Philippines' 200-mile Exclusive Economic Zone (EEZ) granted under UNCLOS, while none appear to lie within China's or Taiwan's EEZs or extended continental shelves (ECSs). President Arroyo has indicated her intention to sign the compromise bill into law, notwithstanding China's strong diplomatic protest on February

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¶18. She is likely pleased that this outcome satisfies Philippine obligations under UNCLOS while mollifying House hardliners, and she no doubt hopes that -- despite its diplomatic growling -- China will likewise be placated. President Arroyo will have a face-to-face chance to gauge Chinese reaction at the February 28 - March 1 ASEAN summit in Thailand, where the countries' leaders will meet.

KENNEY